

Time started: 6:00 pm

Time finished: 6:47 pm

SPECIAL MEETING OF THE COMMUNITY COMMISSION 17 OCTOBER 2008

Present: Councillor Nath (Chair)
Councillors Bayliss, R Khan, Lowe, and Richards

In attendance: Councillors Hickson, Jennings and Naitta

45/08 Apologies for Absence

Apologies for absence were received from Councillors Banwait, Chera, Leeming and Redfern.

46/08 Late Items introduced by the Chair

There were no late items.

47/08 Declarations of Interest

Councillor Jennings declared a personal interest in item 48/08 as one of the toilets for proposed closure was within his ward and another of the toilets was within the Eagle Centre Market where he operated a business. Councillor R Khan declared a personal interest in item 48/08 as one of the toilets proposed for closure was within his ward.

48/08 Call-In

In accordance with Overview and Scrutiny Procedure Rule OS36, the Monitoring Officer had called in for scrutiny a decision in respect of the Environmental Services – Budget Implementation (Minute Number 92/08) taken by Council Cabinet at its meeting on 30 September 2008.

The request for call-in had been made by Councillors Hickson, Jennings and Holmes.

The Commission was provided with copies of the report considered by Council Cabinet on 30 September 2008, the notices requesting the call-in, an extract of the Council Cabinet minute 92/08, a copy of the Protocol on Call-In of Executive Key decisions.

The call-in letters stated that in taking the decision the Council Cabinet had breached the following principles of decision making as set out in Rule OS33 of the Constitution:

- b) due consultation and the taking of advice from officers

- c) respect for human rights
- d) a presumption in the favour of openness
- e) clarity of aims and desired outcomes

In accordance with the Protocol Councillors Hickson and Jennings presented the case for the call-in.

It was reported that not all the toilets proposed for closure were in poor condition or were affected by anti- social behaviour. It was claimed that significant sums had been spent on refurbishing the Markeaton Park toilets and those in the Eagle Market. It was noted that the list of premises suggested as alternatives to the public toilets that were to close were not accurate. The Commission was told that the Chellaston Community Centre, which was listed as an alternative to the toilets in High Street Chellaston, was not available because the Community Centre was leased to a mother and toddler group.

The Cabinet Member for Leisure and Culture Services and the Corporate Director of Environmental Services responded to the points made Councillors Hickson and Jennings. Members of the Commission then asked questions of the Cabinet Member, Councillors Hickson and Jennings and the Corporate Director, relating to the decision.

The Cabinet member and the officers told the Commission that there had been officer/member consultation on the proposal with the previous Cabinet portfolio holder and that the proposed toilet closures formed part of the 2008/09 draft budget proposals on which there had been the usual consultation. However, the Corporate Director of Environmental Services confirmed that there had been no specific public consultation on the proposed closure of the toilets.

Councillors Hickson and Jennings made further statements to the Commission followed by a statement from the Cabinet Member for Leisure and Culture.

The Commission considered that the closure of the toilets would have a disproportionate effect on certain user groups, such as women, older people, children, disabled people, and people from ethnic minority groups, and there was no evidence to show that the human rights of these user groups had been taken into account. The Chair pointed out that members of some ethnic minority groups would not be prepared to go into a public house to use the toilet. It was also suggested that some people might find it embarrassing to have to use the toilet facility in shops, and that shops did not anyway have to provide such a facility. It was felt by the Commission that the decision to close the public toilets would have a disproportionate effect on the human rights of the minority groups in question.

The Commission considered whether the decision of the Council Cabinet had breached any of the principles set out in Rule OS33 of the Constitution.

Resolved:

1. to ask Council Cabinet to reconsider its decision of 30 September 2008 (Minute 92/08) on the provision of on the grounds that, in making the decision, the Council Cabinet breached the following decision making principles:

- b) due consultation and the taking of advice from officers
- c) respect for human rights
- e) clarity of aims and desired outcomes

in that:

- i) there should have been proper consultation with the public on the proposed toilet closures
- ii) the effect on the human rights of the groups most likely to be affected by the closures should have been considered in detail and fully addressed
- iii) in all cases viable alternatives to the toilets proposed for closure should have been identified and agreement to allow the use of those facilities should have been obtained from the persons/organisations responsible for them.

Minutes end